

Short Title: GSC Industrial Banks Update/Technical Amends.

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE INDUSTRIAL BANKS ARTICLE, TO PROVIDE THAT A
SETTLEMENT AGENT MAY DISBURSE SETTLEMENT PROCEEDS IN RELIANCE
ON A CHECK DRAWN ON THE ACCOUNT OF OR ISSUED BY A LICENSED
MORTGAGE LENDER, AND TO MAKE TECHNICAL AMENDMENTS TO THE
BANKING LAWS.

The General Assembly of North Carolina enacts:

PART I. UPDATE INDUSTRIAL BANKS ARTICLE

SECTION 1. Article 11 of Chapter 53 of the General Statutes reads as rewritten:

"Article 11.

"Industrial Banks.

"§ 53-136. ~~Industrial bank~~ "Industrial bank" defined.

The term "industrial bank," as used in this ~~Article shall be construed to mean~~ Article, means
any corporation organized or authorized under this Article ~~which~~ that is engaged in receiving,
~~soliciting~~ soliciting, or accepting money or its equivalent on deposit and in lending money to be
repaid in weekly, monthly, or other periodical installments or principal sums as a ~~business~~:
~~Provided, however, this definition shall not be construed to~~ business. This term, however, does
not include building and loan associations, commercial banks, or credit unions.

"§ 53-137. Manner of organization.

Any number of persons, not less than five, may organize an industrial bank by setting forth
in a certificate of incorporation, ~~under their hands and seals, signed and acknowledged by or on~~
~~behalf of them,~~ the following:

- (1) The name of the industrial bank.

(2) The location of its principal office in this State.

(3) The nature of its business.

(4) The amount of its authorized capital stock which shall be divided into shares of ten (\$10.00), twenty (\$20.00), twenty-five (\$25.00), fifty (\$50.00) or one hundred dollars (\$100.00) each: ~~Provided, fractional shares may be issued for the purpose of complying with the requirements of G.S. 53-88, each.~~

(5) The names and ~~post-office-mailing~~ addresses of subscribers for stock, and the number of shares subscribed by each. The aggregate of ~~such~~ this subscription shall be the amount of the capital with which the industrial bank will begin business.

(6) ~~Period, if any, limited for the~~ The duration of the industrial bank.

~~This section shall not apply to banks organized and doing business prior to the adoption of this section.~~

[Staff Note: G.S. 53C-3-3, which is the comparable provision for a commercial bank, provides: § 53C-3-3. Articles of incorporation of a proposed bank.

(a) The articles of incorporation of a proposed bank shall be signed and acknowledged by or on behalf of an organizer and shall contain the following:

(1) The information required to be set forth in articles of incorporation under Chapter 55 of the General Statutes.

(2) Any provision consistent with Chapter 55 of the General Statutes and other applicable law that the organizers elect to set forth for the regulation of the internal affairs of the proposed bank and that the Commissioner authorizes or requires.

(3) Any provision the Commissioner requires or authorizes as a substitute for a provision that otherwise would be required by Chapter 55 of the General Statutes.

(b) Before the chartering of a proposed bank, the articles of incorporation filed under the provisions of G.S. 53C-3-2 shall be sufficient certification to the FDIC that the proposed bank is a legal entity.]

"§ 53-138. Corporate title.

Every corporation incorporated or reorganized pursuant to the provisions of this Article shall be known as an industrial ~~bank,~~ bank and may use the word "bank" as part of its corporate title.

~~"§ 53-139. Capital stock.~~

~~The amount of capital stock with which any industrial bank shall commence business shall not be less than fifty percent (50%) of that which would be required of a commercial bank under the provisions of G.S. 53-2.~~

"§ 53-140. Sales of capital stock; accounting; fees.

The capital stock sold by any industrial bank in process of organization, or for an increase of the capital stock, shall be accounted for to the industrial bank in the full amount paid for the ~~same stock~~. No commission or fee shall be paid to any person, association, or corporation for selling ~~such the~~ stock. The Commissioner ~~of Banks~~ shall refuse authority to commence business to any industrial bank where commissions or fees have been paid, or have been contracted to be paid by it, or by anyone in its behalf to any person, association, or corporation for securing subscriptions for or selling stock in ~~such the industrial~~ bank.

"§ 53-141. Powers.

Industrial banks ~~shall~~ have perpetual duration and succession in their corporate name unless a limited period of duration is stated in their certificate of incorporation. They ~~shall~~ have the powers conferred by ~~subdivisions (1), (2), and (3) of subsection (a) of G.S. 55-3-02, and subdivision (3) of G.S. 53-43, G.S. 55-3-02(a)(1), (2), and (3) and G.S. 53C-5-2(i), such any~~ additional powers ~~as may be that are~~ necessary or incidental for the carrying out of their corporate purposes, and ~~in addition thereto~~ the following powers:

- (1) To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of indebtedness, and to loan money on real or personal security, and to purchase notes, bills of exchange, acceptances or other choses in action, and to take and receive interest or ~~discounts subject to G.S. 53-43(1).~~ discounts.
- (2) To make loans and charge and receive interest at rates not exceeding the rates of interest provided in G.S. 24-1.1.

(3) To establish branch offices or places of business within the county in which its principal office is located, and elsewhere in the State, after having first obtained the written approval of the ~~Commissioner of Banks, Commissioner,~~ which approval may be given or withheld by the Commissioner ~~of Banks~~ in his ~~the~~ Commissioner's discretion. The ~~Commissioner of Banks,~~ Commissioner, in exercising ~~such~~ this discretion, shall take into account, but not by way of limitation, such factors as the financial history and condition of the applicant industrial bank, the adequacy of its capital structure, its future earnings prospects, and the general character of its management. ~~Such approval~~ Approval shall not be given until ~~he shall find~~ the Commissioner finds all of the following:

- a. That the establishment of ~~such the branch or limited service facility~~ will meet the needs and promote the convenience of the community to be served by the ~~bank, and~~ industrial bank.
- b. That the probable volume of business and reasonable public demand in ~~such the~~ community are sufficient to assure and maintain the solvency of ~~said the branch or limited service facility~~ and of the existing bank or banks in ~~said the~~ community.

~~Provided, that the~~ The Commissioner ~~of Banks~~ shall not authorize the establishment of any branch ~~the paid in capital of whose parent bank is not sufficient in amount to provide for capital in an amount equal to that required with respect to the establishment of branches of commercial banks under the provisions of G.S. 53-62. For the purposes of this paragraph, the provisions of G.S. 53-62 as to the meaning of the word "capital" shall be applicable. that would not be permitted under G.S. 53C-6-15.~~

1 ~~A~~An industrial bank may discontinue a branch office upon resolution of
2 its board of directors. Upon the adoption of ~~such a~~the resolution, the industrial
3 bank shall follow the procedures for closing a branch as set forth at
4 ~~G.S. 53-62(e).~~in G.S. 53C-6-17. No branch shall be closed until approved by
5 the ~~Commissioner of Banks.~~Commissioner.

6 (4) Subject to the approval of the Commissioner ~~of Banks~~ and on the authority of
7 its board of directors, or a majority thereof, to enter into ~~such~~any contract,
8 incur ~~such obligations~~any obligations, and generally ~~to do and~~ perform any
9 ~~and all such acts and things whatsoever as may be necessary or appropriate in~~
10 ~~order~~ to take advantage of any and all memberships, loans, subscriptions,
11 contracts, grants, ~~rights~~rights, or ~~privileges, which~~privileges that may at any
12 ~~time~~ be available or inure to banking institutions, or to their depositors,
13 creditors, stockholders, conservators, ~~receivers~~receivers, or liquidators, ~~by~~
14 ~~virtue of those provisions of section eight of the Federal Banking Act of 1933~~
15 ~~(section twelve B of the Federal Reserve Act as amended) which establish the~~
16 ~~Federal Deposit Insurance Corporation and provide for the insurance of~~
17 ~~deposits, or of any other provisions of that or any other act or resolution of~~
18 ~~Congress to aid, regulate or safeguard banking institutions and their~~
19 ~~depositors, including any amendments of the same or any substitutions~~
20 ~~therefor;~~ including obtaining deposit insurance from the Federal Deposit
21 Insurance Corporation or becoming a member of the Federal Reserve System.

22 ~~(4a) also, to~~To subscribe for and acquire any stock, debentures, ~~bonds~~bonds, or
23 other types of securities of the Federal Deposit Insurance Corporation and to
24 comply with the lawful regulations and requirements from time to time issued
25 or made by ~~such corporations.~~ the Federal Deposit Insurance Corporation.

(5) To solicit, ~~receive~~ receive, and accept money or its equivalent on deposit both in savings accounts and upon certificates of deposit.

(6) Subject to the approval of the ~~State Banking Commission~~, to solicit, ~~receive~~ receive, and accept money or its equivalent on deposit subject to ~~check~~; ~~provided, however, no~~ check. No such ~~approval~~ approval, however, shall be given unless and until ~~such~~ the industrial bank meets the capital requirements of a commercial bank as set forth in ~~G.S. 53-2~~, G.S. 53C-1-4(62).

(7) To transact any lawful business in aid of the United States in time of war or engagement of the Armed Forces of the United States in hostile military operations.

[Staff Note: The term "limited service facility" appears nowhere in Chapter 53C of the General Statutes.]

"§ 53-142. Restriction on powers.

No industrial bank shall deposit any of its funds in any banking corporation unless ~~such~~ the corporation has been designated as ~~such~~ a depository by a vote of a majority of the directors, or of the executive committee, exclusive of any director who is an officer, director, or trustee of the depository so designated, present at any meeting duly called at which a quorum is in attendance, and approved by the ~~Commissioner of Banks~~, Commissioner.

"§ 53-143. Investments; securities; loans; limitations.

~~The provisions of G.S. 53-46, 53-48 and 53-49, G.S. 53C-5-2(j) and G.S. 53C-6-1, with reference to the limitations of investments in securities, limitations of~~ ~~loans~~ loans, and suspensions of investment and loan limitations, ~~shall be applicable~~ apply to industrial banks.

[Staff Note: At a previous meeting, the General Statutes Commission flagged the issue of whether G.S. 53-143 should be repealed as partially duplicative of G.S. 53-145.]

"§ 53-144. Supervision and examination.

Every ~~industrial bank now or hereafter~~ person transacting the business of an industrial bank
as ~~defined by this Article, bank,~~ whether as a separate business or in connection with any other
business under the laws of ~~and within~~ this State, ~~shall be~~ is subject to the provisions of this
~~Article, Article~~ and shall be under the supervision of the Commissioner of Banks. Commissioner.
The Commissioner ~~of Banks~~ shall exercise control of and supervision over the industrial banks
doing business under this Article, and it shall be ~~his~~ the Commissioner's duty to execute and
enforce, through the State bank examiners and ~~such any~~ other agents as ~~are now or may hereafter~~
~~be may be~~ created or appointed, all laws ~~which are now or may hereafter be enacted~~ relating to
industrial ~~banks as defined in this Article. banks.~~ For the more complete and thorough
enforcement of the provisions of this Article, the State Banking Commission ~~is hereby~~
~~empowered to promulgate~~ may adopt such rules, regulations, and instructions, not inconsistent
with the provisions of this Article, ~~as may, that,~~ in its opinion, ~~be are~~ necessary (i) to carry out
the provisions of the laws relating to industrial ~~banks as in this Article defined, and as may be~~
~~further necessary banks, (ii) to insure such~~ ensure the safe and conservative management of
industrial banks under the supervision of the Commissioner of Banks as may Commissioner, and
(iii) to provide adequate protection for the interest of creditors, stockholders, and the public, in
their relations with ~~such these~~ institutions. All industrial banks doing business under the
provisions of this Article shall conduct their business in a manner consistent with all laws relating
to industrial ~~banks, banks~~ and all ~~rules, regulations rules and instructions that may be~~
~~promulgated or issued~~ adopted by the State Banking Commission.

Alternative A

["§ 53-145. Sections of general law applicable.

~~Sections 53-1, 53-3, 53-4, 53-5, 53-6, 53-7, 53-8, 53-9, 53-10, 53-11, 53-12, 53-13, 53-18,~~
~~53-20, 53-22, 53-23, 53-42, 53-42.1, 53-47, 53-50, 53-51, 53-54, 53-63, 53-64, 53-67, 53-68,~~

~~53-70, 53-71, 53-73, 53-78, 53-79, 53-80, 53-81, 53-82, 53-83, 53-85, 53-87, 53-88, 53-90,
53-91.2, 53-91.3, 53-105, 53-106, 53-107, 53-108, 53-109, 53-110, 53-111, 53-112, 53-117,
53-118, 53-119, 53-120, 53-121, 53-122, 53-123, 53-124, 53-125, 53-126, 53-128, 53-129,
53-132, 53-133, 53-134, relating to the supervision and examination of commercial banks, shall
be construed to be applicable to industrial banks, insofar as they are not inconsistent with the
provisions of this Article. Sections 53-19, 53-24, 53-37, 53-39, 53-40, 53-41, 53-44, 53-45,
53-61, 53-75, 53-76, 53-77, 53-86, 53-113, 53-114, 53-115, 53-116, 53-135, 53-146, and 53-148
through 53-158, relating to commercial banks, shall be construed to be applicable to industrial
banks.~~

The following sections apply to industrial banks: G.S. 53C-1-4, 53C-2-4, 53C-2-5, 53C-3-1,
53C-3-2, 53C-3-3, 53C-3-4, 53C-3-5, 53C-3-6, 53C-3-7 (except for subdivision (a)(3) of that
section), 53C-4-1, 53C-4-2, 53C-4-3, 53C-4-4, 53C-4-5, 53C-4-6, 53C-4-7, 53C-4-8, 53C-4-9,
53C-4-11, 53C-5-2 (except for subdivisions (a)(3), (a)(4), and (a)(6) of that section), 53C-5-3,
53C-6-1, 53C-6-12, 53C-6-14, 53C-7-101, 53C-7-102, 53C-7-104, 53C-7-105, 53C-7-201,
53C-7-202, 53C-7-203, 53C-7-209, 53C-8-2, 53C-8-3, 53C-8-4, 53C-8-6, 53C-8-7, 53C-8-8,
53C-8-9, 53C-8-10, 53C-8-11, 53C-8-14, 53C-8-15, 53C-9-101, 53C-9-102, 53C-9-103,
53C-9-201, 53C-9-202, 53C-9-203, 53C-9-301, 53C-9-401, and 53C-9-402."

*[Staff Note: The General Statutes Commission flagged the issue of whether this list of applicable
G.S. sections should be split into two lists like the structure in current law.]*

Alternative B

**["§ 53-145. Sections of general law applicable. Applicability of Chapter 53C of the General
Statutes; exceptions.**

~~Sections 53-1, 53-3, 53-4, 53-5, 53-6, 53-7, 53-8, 53-9, 53-10, 53-11, 53-12, 53-13, 53-18,
53-20, 53-22, 53-23, 53-42, 53-42.1, 53-47, 53-50, 53-51, 53-54, 53-63, 53-64, 53-67, 53-68,
53-70, 53-71, 53-73, 53-78, 53-79, 53-80, 53-81, 53-82, 53-83, 53-85, 53-87, 53-88, 53-90,~~

~~53-91.2, 53-91.3, 53-105, 53-106, 53-107, 53-108, 53-109, 53-110, 53-111, 53-112, 53-117,
53-118, 53-119, 53-120, 53-121, 53-122, 53-123, 53-124, 53-125, 53-126, 53-128, 53-129,
53-132, 53-133, 53-134, relating to the supervision and examination of commercial banks, shall
be construed to be applicable to industrial banks, insofar as they are not inconsistent with the
provisions of this Article. Sections 53-19, 53-24, 53-37, 53-39, 53-40, 53-41, 53-44, 53-45,
53-61, 53-75, 53-76, 53-77, 53-86, 53-113, 53-114, 53-115, 53-116, 53-135, 53-146, and 53-148
through 53-158, relating to commercial banks, shall be construed to be applicable to industrial
banks.~~

Chapter 53C of the General Statutes applies to industrial banks, except for the following
provisions:

(1) G.S. 53C-3-7(a)(3).

(2) G.S. 53C-5-1.

(3) G.S. 53C-6-2(b).

(4) Article 10 of Chapter 53C of the General Statutes."

[Staff Note: This alternative approach lists exceptions, instead of applicable provisions. It specifically excepts G.S. 53C-3-7(a)(3) and G.S. 53C-6-2(b), because these provisions require banks to obtain FDIC insurance. It also excepts G.S. 53C-5-1, which lists the powers of a commercial bank, because G.S. 53-141 already lists the powers of an industrial bank. Finally, it excepts Article 10 (Bank Holding Companies) of Chapter 53C, because one of the primary features of an industrial bank is that its parent is not required to register as a bank holding company.]

PART II. GOOD FUNDS SETTLEMENT ACT AMENDMENTS

SECTION 2. G.S. 45A-4 reads as rewritten:

"§ 45A-4. Duty of settlement agent.

(a) The settlement agent shall cause recordation of the deed, if any, the deed of trust or mortgage, or other loan documents required to be recorded at settlement. The settlement agent shall not disburse any of the closing funds prior to verification that the closing funds used to fund disbursement are deposited in the settlement agent's trust or escrow account in one or more forms

prescribed by this Chapter. A settlement agent may disburse funds from the settlement agent's trust or escrow account (to either the applicable register of deeds or directly to a private company authorized to electronically record documents with the office of the register of deeds) as necessary to record any deeds, deeds of trust, and any other documents required to be filed in connection with the closing, including excise tax (revenue stamps) and recording fees, but the settlement agent ~~may~~ shall not disburse any other funds from its trust or escrow account until the deeds, deeds of trust, and other required loan documents have been recorded in the office of the register of deeds. Unless otherwise provided in this Chapter, a settlement agent shall not cause a disbursement of settlement proceeds unless those settlement proceeds are collected funds. Notwithstanding that a deposit made by a settlement agent to its trust or escrow account does not constitute collected funds, the settlement agent may cause a disbursement of settlement proceeds from its trust or escrow account in reliance on that deposit if the deposit is in one or more of the following forms:

- (1) A certified ~~check~~; check.
- (2) A check issued by the State, the United States, a political subdivision of the State, or an agency or instrumentality of the United States, including an agricultural credit ~~association~~; association.
- (3) A cashier's check, teller's check, or official bank check drawn on or issued by a financial institution insured by the Federal Deposit Insurance Corporation or a comparable agency of the federal or state ~~government~~; government.
- (4) A check drawn on the trust account of an attorney licensed to practice in ~~the State of North Carolina~~; Carolina.
- (5) A check or checks drawn on the trust or escrow account of a real estate broker licensed under Chapter 93A of the General ~~Statutes~~; Statutes.

(6) A personal or commercial check or checks in an aggregate amount not exceeding five thousand dollars (\$5,000) per closing if the settlement agent making the deposit has reasonable and prudent grounds to believe that the deposit will be irrevocably credited to the settlement agent's trust or escrow ~~account;~~ account.

(7) A check drawn on the account of or issued by a mortgage ~~banker~~ lender licensed under Article ~~19A~~ 19B of Chapter 53 of the General Statutes ~~that has posted with the Commissioner of Banks a surety bond in the amount of at least three hundred thousand dollars (\$300,000). The surety bond shall be in a form satisfactory to the Commissioner and shall run to the State for the benefit of any settlement agent with a claim against the licensee for a dishonored check.~~ Statutes.

(b) If the settlement agent receives information from the lender as provided in G.S. 45A-5(b) or otherwise has actual knowledge that a mortgage broker or other person acted as a mortgage broker in the origination of the loan, the settlement agent shall place an entry on page 1 of the deed of trust showing the name of the mortgage broker or other person ~~who~~ that acted as a mortgage broker in the origination of the loan. Information pertaining to the identity of the mortgage broker or other person ~~who~~ that acted as a mortgage broker in the origination of the loan ~~shall not be considered~~ is not confidential information. The ~~terms~~ term "mortgage broker" and "act as a mortgage broker" ~~shall have~~ has the same meaning as provided in ~~G.S. 53-243.01.~~ G.S. 53-244.030."

PART III. TECHNICAL BANKING AMENDMENTS

SECTION 3. G.S. 53-249 reads as rewritten:

"§ 53-249. Filing and posting of loan fees; disclosures.

(a) ~~Filing of Fee Schedule.~~ Schedule. — On or before January 2 of each year, each registrant shall file with the Commissioner a schedule of the refund anticipation loan fees for refund anticipation loans to be facilitated by the registrant during the succeeding year. Immediately upon learning of any change in the refund anticipation loan fee for that year, the registrant shall file an amendment with the Commissioner setting out the change. Filing is effective upon receipt by the Commissioner.

(b) ~~Notice of Unconscionable Fee.~~ Fee. — If the Commissioner finds that a refund anticipation loan fee filed pursuant to subsection (a) is unconscionable, ~~he~~ the Commissioner shall notify the registrant that (i) in ~~his~~ the Commissioner's opinion the fee is unconscionable and (ii) the consequences of charging a refund anticipation loan fee in an amount that the Commissioner has notified the registrant is unconscionable include liability to the debtor for three times the amount of that fee and possible revocation of registration as a facilitator after notice and a hearing.

(c) ~~Posting of Fee Schedule.~~ Schedule. — Every registrant shall prominently display at each office where the registrant is facilitating refund anticipation loans a schedule showing the current refund anticipation loan fees for refund anticipation loans facilitated at the office and the current electronic filing fees for the electronic filing of the taxpayer's tax return. Every registrant shall also prominently display on each fee schedule a statement to the effect that the taxpayer may have the tax return filed electronically without also obtaining a refund anticipation loan. No registrant may facilitate a refund anticipation loan unless (i) the schedule required by this subsection is displayed and (ii) the refund anticipation loan fee actually charged is the same as the fee displayed on the schedule and the fee filed with the Commissioner pursuant to subsection ~~(a).~~ (a) of this section.

(d) ~~Disclosures.~~ Disclosures. — At the time a debtor applies for a refund anticipation loan, the registrant shall disclose to the debtor on a form separate from the application:

- (1) ~~The fee for the loan.~~ refund anticipation loan fee.
- (2) The fee for electronic filing of a tax return.
- (3) The time within which the proceeds of the loan will be paid to the debtor if the loan is approved.
- (4) That the debtor is responsible for repayment of the loan and related fees in the event the tax refund is not paid or is not paid in full.
- (5) The availability of electronic filing of the taxpayer's tax return, along with the average time announced by the appropriate taxing authority within which a taxpayer can expect to receive a refund if the taxpayer's return is filed electronically and the taxpayer does not obtain a refund anticipation loan.
- (6) Examples of the annual percentage rates, as defined by the Truth In Lending Act, 15 U.S.C. § 1607 and 12 C.F.R. Section 226.22, for refund anticipation loans of five hundred dollars (\$500.00), seven hundred fifty dollars (\$750.00), one thousand dollars (\$1,000), one thousand five hundred dollars (\$1,500), two thousand dollars (\$2,000), and three thousand dollars (\$3,000). Regardless of disclosures of the annual percentage rate required by the Truth In Lending Act, if the debtor is required to establish or maintain a deposit account with the creditor for receipt of the debtor's tax refund to offset the amount owed on the loan, the maturity of the loan for the purpose of determining the annual percentage rate disclosure under this section shall be assumed to be the estimated date when the tax refund will be deposited in the debtor's account."

SECTION 4. G.S. 53-258 reads as rewritten:

"§ 53-258. Authority and procedures governing reverse mortgage loans.

(a) Except as provided in subsection (b1) of this section, no person, firm, or corporation shall engage in the business of making reverse mortgage loans without first being approved as an authorized reverse mortgage lender by the Commissioner. Mortgage lenders licensed under Article ~~19A~~19B of this Chapter must also be authorized under this Article before making reverse mortgage loans.

(b) An application for authorization to make reverse mortgage loans shall be in writing to the Commissioner and in the form prescribed by the Commissioner. The application shall contain the name and complete business address or addresses of the applicant. The application shall also include affirmation of financial solvency and all capitalization requirements that are required by the Commissioner. The application shall be accompanied by a nonrefundable fee, payable to the Commissioner, of five hundred dollars (\$500.00).

(b1) Each of the following lenders shall be considered authorized to engage in the business of making reverse mortgage loans without being required to apply pursuant to subsection (b) of this section and may represent to the public that it is so authorized:

(1) The North Carolina Housing Finance Agency.

(2) A bank, savings institution, or credit union formed under the laws of this or any other state or of the United States.

(3) A wholly owned subsidiary of an entity described in subdivision (2) of this subsection.

Each lender listed in this subsection may, upon written request to the ~~Commissioner of Banks,~~ Commissioner, obtain written confirmation of its authority to engage in the business of making reverse mortgage loans. In the case of lenders listed in subdivisions (2) and (3) of this subsection, the request shall be accompanied by the fee set forth in subsection (d) of this section.

(c) Repealed by Session Laws 2004-171, s. 16, effective October 1, 2004, and applicable to acts occurring and transactions or agreements entered into on or after that date.

(d) The Commissioner shall, upon determination that an applicant should be authorized to make reverse mortgage loans, issue notice of this authority to the lender. The authority to issue reverse mortgage loans is valid for the period of time specified by the Commissioner. A lender to whom a notice of authority is issued shall display the notice prominently in any and all offices of the lender that make reverse mortgage loans. Authorizations issued under this section are nontransferable. Except for lenders described in subsection (b1) of this section, each lender to which an authorization is issued shall pay an annual renewal fee of two hundred fifty dollars (\$250.00)."

SECTION 5. G.S. 53-277 reads as rewritten:

"§ 53-277. Exemptions.

(a) This Article ~~shall~~does not apply to: to any of the following:

(1) A bank, savings institution, credit union, or farm credit system organized under the laws of the United States or any ~~state; and~~ state.

(2) Any person or entity principally engaged in the bona fide retail sale of goods or services, ~~who~~that either as an incident to or independently of a retail sale or service and not holding itself out to be a check-cashing service, from time to time cashes checks, drafts, or money orders for a fee or other consideration, where not more than two dollars (\$2.00) is charged for the service.

(b) A person licensed under Article ~~16A-16B~~ of this Chapter (Money Transmitters Act) is exempt from G.S. 53-276, 53-278, 53-279, and 53-284, but is deemed a licensee for purposes of the remaining provisions of this Article. This exemption does not apply to an authorized ~~agent~~ delegate of a person licensed under Article ~~16A-16B~~ of this Chapter."

SECTION 6. G.S. 53-366 reads as rewritten:

"§ 53-366. Applicability of other laws to authorized trust institutions; status of State trust company.

(a) Except as otherwise provided in this Article, the following provisions of this Chapter and Chapter 53C of the General Statutes ~~shall~~ apply to authorized trust institutions:

(1), (2) Repealed by Session Laws 2012-56, s. 31, effective October 1, 2012.

(3) G.S. 53C-7-205.

(4) through (6) Repealed by Session Laws 2012-56, s. 31, effective October 1, 2012.

(7) Article 8 of Chapter 53C of the General Statutes, except where it clearly appears from the context that a particular provision is not applicable to trust business or trust marketing, and except that the provisions of this Article ~~shall~~ apply in lieu of: of the following provisions:

a. G.S. 53C-8-2.

b. G.S. 53C-8-3.

c. G.S. 53C-8-17.

(8), (9) Repealed by Session Laws 2012-56, s. 31, effective October 1, 2012.

(10) Article 14 of this Chapter.

(11) G.S. 53C-2-7(b).

(b) Rules adopted by the Commissioner to implement those provisions of this Chapter made applicable to authorized trust institutions by subsection (a) of this section also ~~shall~~ apply to authorized trust institutions unless the rules are inconsistent with this Article or it clearly appears from the context that a particular provision is inapplicable to trust business or trust marketing.

(c) Activities of authorized trust institutions for clients shall not be considered ~~the sale or issuance of checks~~ money transmission under Article ~~16-16B~~ of Chapter 53 of the General Statutes.

(d) Until the Commissioner has issued new rules governing State trust companies, State trust companies ~~shall be~~ are governed by rules issued by the Commissioner for banks acting in a fiduciary capacity, except to the extent the rules are inconsistent with this Article or it clearly appears from the context that a particular provision is inapplicable to the business of a State trust company.

(e) Notwithstanding any other provision of this Chapter, a State trust ~~company~~ company ~~shall be deemed to be~~ all of the following:

(1) Repealed by Session Laws 2012-56, s. 31, effective October 1, 2012.

(2) ~~Is a~~ A "bank" for purposes of laws made applicable to authorized trust institutions in this section and for purposes of G.S. 53-277.

(3) ~~Is a~~ A trust company organized and doing business under the laws of ~~the State of~~ North Carolina, a substantial part of the business of which is exercising fiduciary powers similar to those permitted national banks under authority of the Comptroller of the Currency, and which is subject by law to supervision and examination by the Commissioner as a banking ~~institution~~; and institution.

(4) ~~Is a~~ A financial institution similar to a bank.

(f) In the case of a State trust company controlled by a company that has declared itself to be a "financial holding company" under 12 U.S.C. § 1843(l)(1)(C)(i), deposits held for an account shall be deemed to be "trust funds" within the meaning of 12 U.S.C. § 1813(p) unless all fiduciary duties with respect to the account are explicitly disclaimed. This subsection does not prescribe the nature or extend the scope of any fiduciary duties; the nature and extent of any fiduciary duties with respect to deposits held for accounts ~~shall be~~ are as provided by the instruments and laws applicable to those accounts.

(g) Subject to any limitations contained in this Article, an authorized trust institution is a "trust ~~company~~", company, a "corporate ~~trustee~~", trustee, a "corporate ~~fiduciary~~", fiduciary,"

1 and a "corporation acting in a fiduciary ~~capacity~~", capacity," as ~~such~~ these and similar terms are
2 used in the General Statutes, except where it clearly appears from the context in which those
3 terms are used that a different meaning is intended."

4 **SECTION 7.** G.S. 66-106 reads as rewritten:

5 **"§ 66-106. Definitions.**

6 (a) For purposes of this ~~Article~~ Article, the following definitions apply:

7 ~~(1) A "loan broker" is any person, firm, or corporation who, in return for any~~
8 ~~consideration from any person, promises to (i) procure for such person, or~~
9 ~~assist such person in procuring, a loan from any third party; or (ii) consider~~
10 ~~whether or not it will make a loan to such person.~~

11 ~~(2)~~ (1) A "loan" is an agreement to advance money or property in return for the
12 promise to make payments therefor, whether ~~such~~ the agreement is styled as
13 a loan, credit card, line of credit, ~~a lease~~ lease, or otherwise.

14 (2) A "loan broker" is any person, firm, or corporation that, in return for any
15 consideration from any person, promises to do any of the following:

16 a. Procure for the person, or assist the person in procuring, a loan from
17 any third party.

18 b. Consider whether or not it will make a loan to the person.

19 (b) Except for residential mortgage loans as defined in ~~G.S. 53-243.01~~, G.S. 53-244.030,
20 this Article ~~shall~~ does not apply to any party approved as a mortgagee by the Secretary of Housing
21 and Urban Development, the Federal Housing Administration, the Veterans Administration, a
22 National Mortgage Association or any federal agency; nor to any party currently designated and
23 compensated by a North Carolina licensed insurance company as its agent to service loans it
24 makes in this State; nor to any insurance company registered with and licensed by the North
25 Carolina Insurance Commissioner; nor, with respect to residential mortgage loans, to any

1 residential mortgage ~~banker~~ lender or mortgage broker licensed pursuant to Article ~~19A-19B~~ of
2 Chapter 53 of the General Statutes or exempt from licensure pursuant to ~~G.S. 53-243.01(12) and~~
3 ~~G.S. 53-243.02; G.S. 53-244.040(d);~~ nor to any attorney-at-law, public accountant, or dealer
4 registered under the North Carolina Securities Act, acting in the professional capacity for which
5 ~~such~~ the attorney-at-law, public accountant, or dealer is registered or licensed under the laws of
6 ~~the State of North Carolina. Provided further that subdivision (1)(ii) above shall~~ Sub-subdivision
7 (2)b. of this section does not apply to any lender whose loans or advances to any person, ~~firm~~
8 firm, or corporation in North Carolina aggregate more than one million dollars (\$1,000,000) in
9 the preceding calendar year."

11 **PART IV. EFFECTIVE DATE**

12 **SECTION 8.** This act is effective when it becomes law.